

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

vs.

No. CIV 98-0204 JP/JHG
CR 88-31 JB

GEORGE E. TANNEHILL,

Defendant-Movant.

MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION

This matter is before the Court for consideration of Defendant's motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255. Rule 4(b) Governing Section 2255 Proceedings. Defendant has filed at least four such motions previously, *United States v. George Tannehill, III*, No. 97cv0215BB/RLP; *United States v. George Tannehill, III*, No. 96cv1075 BB/WWD; *United States v. George Tannehill, III*, No. 92cv0165 JB/WWD; *United States v. George Tannehill, III*, No. 89cv0627 JB/SGB. *See Duhart v. Carlson*, 469 F.2d 471, 473 (10th Cir. 1972) (a court may take judicial notice of its own records). Amendments to 28 U.S.C. § 2255 enacted in 1996 added new requirements before a second or successive motion may be pursued. Before a defendant may file or prosecute a second or successive § 2255 motion, a motion for order authorizing the filing must be filed in the appropriate court of appeals. If a defendant does not provide the district court with an authorizing order, the § 2255 motion must be transferred to the court of appeals for consideration of the request for authorization. *Coleman v. United States*, 106 F.3d 339, 341 (10th Cir. 1997); 28 U.S.C. § 1631. The instant motion is Defendant's second and is not accompanied by an authorizing order. This proceeding should be transferred to the United States Court of Appeals for the Tenth Circuit pursuant to 28 U.S.C. § 1631.

RECOMMENDED DISPOSITION

The Clerk should be directed to transfer this case to the United States Court of Appeals for the Tenth Circuit pursuant to 28 U.S.C. § 1631.



JOE H. GALVAN
UNITED STATES MAGISTRATE JUDGE

NOTICE

Within ten days after a party is served with a copy of these proposed findings and recommended disposition that party may, pursuant to **28 U.S.C. § 636 (b)(1)**, file written objections to such proposed findings and recommended disposition. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.